
(2015) 07 P&H CK 0093
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 25580 of 2014

Sukhvir Singh Sidhu

APPELLANT

Vs

Punjab State Power Corporation Ltd. and Others

RESPONDENT

Date of Decision : 28-07-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 179 PLR 823

Hon'ble Judges : Deepak Sibal, J

Bench : Single Bench

Advocate : A.P. Kaushal, for the Appellant; A.S. Sidhu, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Sibal, J—Through the present petition, the petitioner challenges his transfer from Upper Division Clerk (UDC), Lehra Mohabat to UDC at Barnala.

2. The petitioner complains of frequent transfers. He also challenges his transfer on the ground that it violates the transfer guide-lines of the respondent Punjab State Power Corporation Limited (hereinafter referred to as - the Corporation). The petitioner places reliance on Clause 2 (c) and 2 (g) of the guide-lines, which are as under :-

"2. The guide-lines for transfers shall be as under :-

(a) xx xx xx

(b) xx xx xx

(c) In case where both husband and wife are in Government service, as far as possible, they should be allowed to be posted in the same station for a period of five years and after five years, they be transferred as per policy/guide-lines. In the case of those husbands and wives where one of them is in private job, the same guide-lines should be adopted. The cases of unmarried girls and widows, at

the time of their transfers and postings, should be considered above the couple cases.

(d) xx xx xx

(e) xx xx xx

(f) xx xx xx

(g) No government employee should be transferred unless he has completed minimum period of three years. However, in cases of administrative needs specifically pointed out and punishments, the transfers can be made prior to completing minimum period of three years."

3. The petitioner says that he and his wife, as a couple case, should be posted together as per Clause 2 (c) of the guide-lines, applicable to transfers, as reproduced above and also that he could not have been transferred before he had spent three years at the place of posting, as per Clause 2 (g) quoted above. The petitioner further questions his transfer saying that the same is not on administrative grounds.

4. The guide-lines for transfers, as the name suggests, are only for guidance of the administrative authorities in the matter of regulating transfers. They do not vest in the employee any immunity from transfer. A perusal of the order impugned by the petitioner clearly shows that the transfer of the petitioner is in public interest. No mala fides have been even alleged in the present petition. Even otherwise, for the last about seven months, the petitioner has been discharging his duties at the transferred place of posting i.e. Barnala. Moreover, the distance between Lehra Mohabat, where the petitioner seeks to be posted and Barnala, where the petitioner has been posted, is hardly about 40 kilometers.

5. In this regard, the following observations of the Apex Court passed in the case of Rajendra Singh Vs. State of U.P. and Others, (2009) 10 JT 187 : (2009) 15 SCC 178 : (2010) 1 SCC(L&S) 503 : (2009) 12 SCR 243 : (2010) 1 SLR 632 may usefully be referred to, wherein it has been held as follows :-

"8. A Government Servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government Servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires [see State of U.P. and Others Vs. Gobardhan Lal, AIR 2004 SC 2165 : (2004) 101 FLR 586 : (2004) 5 JT 454 : (2004) 3 LLJ 749 : (2004) 3 SCALE 574 : (2004) 11 SCC 402 : (2005) SCC(L&S) 55 : (2004) 1 SCR 337 : (2004) 3 SLJ 244 : (2004) AIRSCW 4571 : (2004) AIRSCW 2082 : (2004) 3 Supreme 92 : (2004) 6 Supreme 161]."

6. To the same effect is the judgment of Mohd. Masood Ahmad Vs. State of U.P. and Others, (2007) 115 FLR 363 : (2007) 12 JT 467 : (2007) 11 SCALE 271 : (2007) 8 SCC 150 : (2007) 2 SCC(L&S) 806 : (2007) 10 SCR 72 : (2008) 1 SLJ 430 , relevant paragraphs of which are as under :-

"5. In State of Punjab and others Vs. Joginder Singh Dhatt, AIR 1993 SC 2486 : (1993) JT 485 Supp : (1993) 3 SCALE 818 this Court observed (vide paragraph 3 of the said AIR) : "

We have heard learned counsel for the parties. This Court has time and again expressed its disapproval of the Courts below interfering with the order of transfer of public servant from one place to another. It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting. Ordinarily the Courts have no jurisdiction to interfere with the order of transfer. The High Court grossly erred in quashing the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the Constitution of India in a matter where, on the face of it, no injustice was caused"

6. In Abani Kanta Ray Vs. State of Orissa and Others, (1995) 71 FLR 1134 : (1995) 7 JT 467 : (1995) 6 SCALE 41 : (1995) 4 SCC 169 Supp : (1995) 4 SCC 169 : (1995) 4 SCR 333 Supp , this Court observed (vide paragraph 10):

"It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer. (See N.K. Singh Vs. Union of India and others, AIR 1995 SC 423 : (1994) 5 JT 298 : (1995) 1 LLJ 854 : (1994) 3 SCALE 845 : (1994) 6 SCC 98 : (1994) 2 SCR 772 Supp : (1994) 3 SLJ 37 "

7. The scope of judicial review of transfer under Article 226 of the Constitution of India has been settled by the Supreme Court in Rajendra Roy Vs. Union of India (UOI) and Another, AIR 1993 SC 1236 : AIR 1992 SC 1236 : (1992) 6 JT 732 : (1993) LabIC 446 : (1992) 3 SCALE 218 : (1993) 1 SCC 148 : (1993) 1 SLJ 93 , National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and others, (2001) 7 AD 501 : AIR 2001 SC 3309 : (2001) 91 FLR 259 : (2001) 7 JT 515 : (2001) LabIC 3360 : (2001) 2 LLJ 1243 : (2001) 6 SCALE 228 : (2001) 8 SCC 574 : (2002) 1 SCT 236 : (2002) 1 SLJ 86 : (2001) AIRSCW 3548 : (2001) 6 Supreme 883 , State Bank of India Vs. Anjan Sanyal and Others, AIR 2001 SC 1748 : (2001) 90 FLR 14 : (2001) 5 JT 203 : (2001) LabIC 1698 : (2001) 1 LLJ 1687 : (2001) 3 SCALE 329 : (2001) 5 SCC 508 : (2001) SCC(L&S) 858 : (2001) 2 SCR 1165 : (2001) 2 SCT 817 : (2001) 3 SLJ 270 : (2001) AIRSCW 1674 : (2001) 3 Supreme 436 . Following the aforesaid principles laid down by the Supreme Court, the Allahabad High Court in Vijay Pal Singh vs. State of U.P. (1997) 3 ESC 1668; (1998) All LJ 70) and Onkarnath Tiwari vs. The Chief Engineer, Minor Irrigation Department, U.P. Lucknow (1997) 3 ESC 1866; (1998 All LJ 245), has held that the principle of law laid down in the aforesaid decisions

is that an order of transfer is a part of the service conditions of an employee which should not be interfered with ordinarily by a Court of law in exercise of its discretionary jurisdiction under Article 226 unless the Court finds that either the order is mala fide or that the service rules prohibit such transfer, or that the authorities who issued the orders, were not competent to pass the orders."

7. The observations made by the Apex Court in the judgment namely B. Varadha Rao Vs. State of Karnataka and Others, AIR 1986 SC 1955 : (1986) 1 JT 249 : (1986) LabIC 1806 : (1986) 2 LLJ 516 : (1986) 2 SCALE 344 : (1986) 4 SCC 131 : (1986) 2 UJ 573 are also important to note, which are as under :-

"4.... It is well understood that transfer of a Government servant who is appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore does not result in any alteration of any of the conditions of service to his disadvantage. That a Government servant is liable to be transferred to a similar post in the same cadre is a normal feature and incident of Government service and no Government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post. As the learned Judges rightly observe :

The norms enunciated by Government for the guidance of its officers in the matter of regulating transfers are more in the nature of guidelines to the officers who order transfers in the exigencies of administration than vesting of any immunity from transfer in the Government servants."

8. In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.